

HOUSE BILL No. 1607

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.5-8.

Synopsis: Local option sales tax for property tax replacement. Provides that a county council or city-county council may adopt and impose a local option sales tax of up to 0.5% on retail transactions in the county. Provides that the revenue from the tax shall be used for property tax replacement credits for civil taxing units in the county.

Effective: July 1, 2001.

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January 17, 2001, read first time and referred to Committee on Ways and Means.

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Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1607

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-3.5-8 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2001]:

4 **Chapter 8. Local Option Sales Tax for Property Tax**
5 **Replacement**

6 **Sec. 1.** Except as otherwise provided in this chapter, the
7 definitions contained in IC 6-2.5-1 apply throughout this chapter.

8 **Sec. 2.** As used in this chapter, "civil taxing unit" means an
9 entity having the power to impose ad valorem property taxes. In
10 the case of a consolidated city, the term includes the consolidated
11 city and all special taxing districts, all special service districts, and
12 all other entities of the consolidated city with budgets and property
13 tax levies that are subject to review under IC 36-3-6-9.

14 **Sec. 3.** As used in this chapter, "county fiscal body" means a
15 county council under IC 36-2-3 or a city-county council under
16 IC 36-3-4.

17 **Sec. 4. (a)** Using procedures described in this chapter, a county

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fiscal body may, by majority vote, adopt an ordinance to impose or rescind the local option gross retail tax for property tax replacement in the county.

(b) Before a county fiscal body may adopt an ordinance to impose or rescind a tax under this chapter, the county fiscal body must hold a public hearing on the proposed ordinance. The county fiscal body must provide notice in accordance with IC 5-3-1 to the public of the time and place that the public hearing will be held.

Sec. 5. (a) The county fiscal body may impose a local option gross retail tax on the transactions described in section 6 of this chapter. A county fiscal body adopting an ordinance under this section must indicate in the ordinance the date the tax becomes effective.

(b) A tax imposed under this chapter may not take effect until at least sixty (60) days after the date the ordinance imposing the tax is adopted.

Sec. 6. (a) Except as provided in section 7 of this chapter, the tax imposed under this chapter by a county fiscal body applies to retail transactions that occur within the county.

(b) Retail transactions that are services described in IC 6-2.5-4-5, IC 6-2.5-4-6, and IC 6-2.5-4-11 are considered as having occurred within the county in which the services are provided.

Sec. 7. (a) A tax imposed under this chapter does not apply to a transaction to the extent that the transaction is exempt from the state gross retail tax under IC 6-2.5.

(b) A tax imposed under this chapter does not apply to the gross retail income derived from a unitary retail transaction to the extent the gross retail income is attributable to a tax under IC 6-2.5 or IC 6-9.

Sec. 8. A county fiscal body that has imposed a tax under this chapter may adopt an ordinance to rescind the tax. The county fiscal body must specify in the ordinance the date the rescission of the tax takes effect.

Sec. 9. If a county fiscal body adopts an ordinance to impose or rescind a tax under this chapter, the county fiscal body shall immediately send a certified copy of the ordinance to the department.

Sec. 10. (a) A tax imposed under this chapter may be imposed only on the gross retail income derived from retail transactions. If the tax imposed under this chapter for a particular transaction results in a fraction of one-half cent (\$0.005) or more, the amount

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of the tax shall be rounded to the next additional cent.

(b) A county fiscal body may not adopt a tax under this chapter that exceeds the rate of one-half percent (0.5%).

(c) A county fiscal body shall give notice of an action under this chapter to the state board of tax commissioners not more than five (5) business days after adopting an ordinance under this chapter.

Sec. 11. (a) A person who receives goods or services in a retail transaction that is taxed under this chapter is liable for the tax. The person shall pay the tax to the retail merchant as a separate amount added to the consideration for the goods or services. The retail merchant shall collect the tax as an agent for the state and the county.

(b) The county fiscal body may adopt an ordinance to require that the tax be reported on forms approved by the county treasurer and that the tax shall be paid monthly to the county treasurer. If the county fiscal body does not adopt such an ordinance, the tax imposed under this chapter shall be imposed, paid, and collected in the same manner in which the state gross retail tax is imposed, paid, and collected under IC 6-2.5.

(c) The department shall determine whether a return that is filed for the payment of the tax imposed under this chapter shall be a separate return or shall be combined with the return filed for the payment of the state gross retail tax.

Sec. 12. (a) A special account within the state general fund shall be established for each county adopting the property tax replacement sales tax. Any revenue derived from the imposition of the property tax replacement gross retail tax by a county shall be deposited in that county's account in the state general fund.

(b) Income earned on money held in an account under subsection (a) becomes a part of that account.

(c) Revenue remaining in an account established under subsection (a) at the end of a fiscal year does not revert to the state general fund.

Sec. 13. (a) Revenue derived from the imposition of the property tax replacement gross retail tax shall, in the manner prescribed by this section, be distributed to the county that imposed it. The amount to be distributed to a county during an ensuing calendar year equals the amount of property tax replacement sales tax revenue that the department, after reviewing the recommendation of the budget agency, estimates will be received from that county during the twelve (12) month period beginning July 1 of the immediately preceding year and ending June 30 of the following

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1 year.

2 (b) Before July 2 of each year, the department, after reviewing
3 the recommendation of the budget agency, shall estimate and
4 certify to the county auditor of each adopting county the amount
5 of property tax replacement gross retail tax revenue that will be
6 collected from that county during the twelve (12) month period
7 beginning July 1 of that year and ending June 30 of the
8 immediately following year. The amount certified is the county's
9 certified distribution for the immediately following year. The
10 amount certified may be adjusted under subsection (c) or (d).

11 (c) The department may certify to an adopting county an
12 amount that is more than the estimated twelve (12) month revenue
13 collection if the department, after reviewing the recommendation
14 of the budget agency, determines that there will be more revenue
15 available for distribution from the county's account established
16 under section 12 of this chapter.

17 (d) The department may certify an amount less than the
18 estimated twelve (12) month revenue collection if the department,
19 after reviewing the recommendation of the budget agency,
20 determines that a part of those collections must be distributed
21 during the current year to enable the county to receive its full
22 certified distribution for the current year.

23 Sec. 14. (a) One-half (1/2) of each county's certified distribution
24 for a year shall be distributed from its account established under
25 section 12 of this chapter to the county treasurer on May 1 and the
26 other one-half (1/2) on November 1 of that year.

27 (b) Distributions made to a county treasurer under subsection
28 (a) shall be treated as though they were property taxes that were
29 due and payable during that same year. The certified distribution
30 shall be distributed and used by the counties as provided in this
31 chapter.

32 (c) All distributions from an account established under section
33 12 of this chapter must be made by warrants issued by the auditor
34 of state to the treasurer of state ordering the appropriate
35 payments.

36 Sec. 15. The certified distribution received by a county treasurer
37 under this chapter shall be allocated, distributed, and used by the
38 civil taxing units of the county as property tax replacement credits
39 as provided under sections 16, 17, and 18 of this chapter.

40 Sec. 16. (a) The county's certified distribution for a calendar
41 year that is to be used as property tax replacement credits shall be
42 allocated by the county auditor among the civil taxing units of the



1 county.

2 (b) Except as provided in section 17 of this chapter, the amount
3 of property tax replacement credits that each civil taxing unit in a
4 county is entitled to receive during a calendar year is the result
5 determined under STEP FIVE of the following formula:

6 STEP ONE: Determine that part of the county's certified
7 distribution that is dedicated to providing property tax
8 replacement credits for that same calendar year.

9 STEP TWO: Determine the sum of the following:

10 (A) The total property taxes collected by each civil taxing
11 unit during the calendar year immediately preceding the
12 calendar year in which the distribution is to be made.

13 (B) The amount of federal revenue sharing funds and
14 certified shares received under IC 6-3.5-1.1 or homestead
15 credits received under IC 6-3.5-6 by each civil taxing unit
16 during the calendar year immediately preceding the year
17 in which the distribution is to be made to the extent that
18 the receipts are used to reduce the civil taxing unit's
19 property tax levy below the limit imposed by IC 6-1.1-18.5
20 for that same calendar year.

21 STEP THREE: Determine the sum of the following:

22 (A) The total property taxes collected by all civil taxing
23 units in the county in the calendar year immediately
24 preceding the calendar year in which the distribution is to
25 be made.

26 (B) The amount of federal revenue sharing funds and
27 certified shares received under IC 6-3.5-1.1 or homestead
28 credits received under IC 6-3.5-6 by all civil taxing units in
29 the county during that calendar year to the extent that the
30 receipts are used to reduce the county's property tax levy
31 below the limit imposed by IC 6-1.1-18.5 for that same
32 calendar year.

33 STEP FOUR: Divide the STEP TWO sum by the STEP
34 THREE sum.

35 STEP FIVE: Multiply the STEP ONE amount by the STEP
36 FOUR quotient.

37 (c) The state board of tax commissioners shall provide each
38 county auditor with the amount of property tax replacement
39 credits that each civil taxing unit in the auditor's county is entitled
40 to receive. The county auditor shall then certify to each civil taxing
41 unit the amount of property tax replacement credits it is entitled to
42 receive during that year. The county auditor shall also certify these

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distributions to the county treasurer.

Sec. 17. (a) This section applies to a civil taxing unit that:

- (1) imposes a property tax that is first due and payable in a year in which a distribution is made under this chapter; and
- (2) did not impose a property tax that was first due and payable in the year that immediately precedes the year in which the distribution is made.

(b) A civil taxing unit is entitled to receive part of the property tax replacement credits to be distributed within the county. The amount that the civil taxing unit is entitled to receive during that year is the result determined under STEP FIVE of the following formula:

STEP ONE: Determine the part of the county's certified distribution that is to be used to provide property tax replacement credits during that year.

STEP TWO: Determine the budget of the civil taxing unit for that year.

STEP THREE: Determine the aggregate budgets of all civil taxing units of that county for that year.

STEP FOUR: Divide the STEP TWO amount by the STEP THREE amount.

STEP FIVE: Multiply the STEP ONE amount by the STEP FOUR quotient.

(c) If for a year a civil taxing unit is allocated a proportion of a county's property tax replacement credits by this section, the formula used in section 16 of this chapter to determine all other civil taxing units' property tax replacement credits shall be changed for that same year by reducing the amount dedicated to providing property tax replacement credits by the amount of property tax replacement credits allocated under this section for that same year. The state board of tax commissioners shall make any adjustments required by this section and provide them to the appropriate county auditors.

Sec. 18. (a) In determining the amount of property tax replacement credits civil taxing units in a county are entitled to receive during a year, the state board of tax commissioners shall consider only property taxes imposed on tangible property that was assessed in that county.

(b) If a civil taxing unit is located in more than one (1) county and receives property tax replacement credits from one (1) or more of the counties, the property tax replacement credits received from each county shall be used only to reduce the property tax rates that

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1 are imposed within the county that distributed the property tax
2 replacement credits.

3 (c) A civil taxing unit shall treat any property tax replacement
4 credits that it receives or is to receive during a particular year as
5 a part of its property tax levy for that same year for purposes of
6 fixing its budget and for purposes of the property tax levy limits
7 imposed by IC 6-1.1-18.5.

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